

## **I. BACKGROUND**

The First Quarterly Report by the Independent Police Auditor was presented to the San Jose City Council on Tuesday, February 1, 1994. In the report, the Auditor was critical of five areas involving the Internal Affairs complaint process. These five areas included Defining Procedural Complaints, Auditing Procedural Complaints, Intervention Counseling for Procedural Complaints, Potential Bias within the Internal Affairs Unit and Objectivity of the Internal Affairs Process. This report will respond to each area of concern with a brief summary of the Independent Police Auditor's five recommendations for change followed by a specific response from the Police Department.

The majority of this report covers major revisions to the Procedure Complaint process while only identifying relatively minor revisions and policy changes to address the remaining four issues. This should not be construed as to minimize the importance of the remaining four issues as the success of the Internal Affairs process will rely equally on each part identified in this report.

This report will also establish a time line that the Department will adhere to in order to implement the recommended changes to the current Internal Affairs process. These changes will include Internal Affairs and Department Duty Manual revisions, Management and Line Officer training, computerized data base adjustments and process implementation.

This report has been coordinated with the City Manager and the City Attorney's Office and has been reviewed by the Independent Police Auditor and the San Jose Police Officer's Association.

## **II. CURRENT INTERNAL AFFAIRS PROCESS**

Before responding to the five areas of concern in the Independent Police Auditor's report, a brief explanation of the current Internal Affairs Process is important. A pictorial flow chart has been included at the end of this report to facilitate understanding of this process.<sup>1</sup>

Internal Affairs receives Citizen complaints in various ways, however they are most commonly received over the telephone or through in-person contact. After a complaint is

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<sup>1</sup> See Appendix A-1: Flow chart for current complaint process.

received by an intake officer, a **Summary of Complaint Form**<sup>2</sup> completed and signed by the complainant (if present) or read back to them over the telephone, in order to insure the accuracy of their complaint. A copy of the Summary of Complaint Form is provided the complainant upon their request. The intake officer then conducts a preliminary investigation in order to determine the appropriate category in which to assign the complaint (Misconduct or Procedural). This investigation routinely involves reviewing all available documentation of the incident (crime reports, dispatch tapes, dispatch print-outs, court transcripts, accident reports, etc.), interviewing incident supervisors and witness officers, and Deputy District Attorney's assigned to the criminal prosecution. Upon completing the preliminary investigation, the intake officer recommends the category of the complaint to the Unit Commander. If the complaint is determined by the Unit Commander to be criminal in nature, the complaint is brought to the attention of the Office of the Chief of Police and the appropriate investigative unit is assigned to conduct a criminal investigation. The case is closely monitored by Internal Affairs so that an administrative investigation can be initiated upon the completion of the criminal investigation.

In cases involving minor transgressions, typically discourteous conduct, citizens often choose to employ the use of an informal process<sup>3</sup> to resolve their concerns. This process is one in which the citizen requests that the case be handled by bringing their concerns to the subject officer's attention via a first level Supervisor or a Command Officer in the subject officer's chain of command. The supervisor then becomes responsible for counseling the officer regarding the citizen's concerns. The citizen is made aware that no further investigation will be conducted by the Department and that their complaint will be documented in the **Procedure Log** (The Independent Police Auditor's report identified this process as problematic in that neither the San Jose Police Duty Manual or the Internal Affairs Procedure Manual documents the existence of this process. Therefore, by including minor transgressions which could include misconduct allegations in the Procedure Log would, by definition, be incorrect).

This informal process of handling a citizen's concerns is only employed with the satisfaction of the complainant. Should a citizen request a formal investigation, the Intake Officer must

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2 See Appendix A-3: Summary of complaint form.

3 San Jose Police Department: Citizen Complaint and Commendation Procedures. Louis A. Cobarruviaz, Chief of Police. November, 1993. Page 4.

determine if the complaint contains allegations of misconduct or is a complaint specific to procedure. Should the facts of the citizen's statement contain allegations of misconduct, the complaint is investigated as a Misconduct Complaint. Should the complaint pertain only to procedures, the case would be closed as a Procedure Complaint. In certain instances, despite the wishes of the citizen to handle the complaint informally, the Internal Affairs Commander will assign the case to be investigated as a Misconduct Complaint. This is usually due to the gravity of the complaint or because of the track record of the involved officer.

Until recently, the informal process for handling complaints was logged in the Procedure Complaint Log, which created a confusing issue. By definition, complaints logged in the Procedure Log were supposed to have been determined to be procedurally correct. Since cases handled by the informal process could contain minor allegations of misconduct, the placement of them in the Procedural Log would clearly be contradictory to the definition of a Procedure Complaint. This informal complaint process evolved over the last 15 years and was never formalized in the Department or Internal Affairs Manual. In an attempt to capture and log all complaints received by Internal Affairs, the Department incorrectly utilized the Procedural Complaint log to index the informal complaint process. Effective January 15, 1994, all citizen complaints categorized as Informal Complaints were logged in a separate log identified as the Informal Complaint Log. This log will continue to be utilized until the new Internal Affairs process described in this report can be implemented.

The remaining citizen complaint cases would either be categorized as a **Procedure Complaint**<sup>4</sup> or a **Misconduct Complaint**<sup>5</sup>. Should the preliminary investigation reveal that the officer(s) properly employed the step-by-step procedures while carrying out his or her lawful duties, the complaint would be categorized as a Procedure Complaint. Once so categorized the complaint is logged in the Procedure Complaint Log with the notes of the investigation being retained by the investigator. Notes are retained for one year and the logs are retained for four years.

A complaint is categorized as a Misconduct Complaint when the facts of the allegation are such that should they be proven, a violation of a Department Policy would occur. It is

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4 A Procedure designates a step-by-step outline of action to be followed for the accomplishment of a task. See San Jose Police Duty Manual Section A 1101.15.

5 See San Jose Police Duty Manual Section C 1513.

important to note that a citizens' labeling of an officer's actions as misconduct (unlawful arrest, improper procedure etc.) does not necessarily mean that misconduct in fact occurred or that the actions as described by the citizen are outside of approved Department Procedure or Policy. Occasionally, citizens believe that what the officer did is misconduct even though the facts that they describe in their complaint are within procedure (thus the case is categorized as a Procedure Complaint).

Once a case is categorized as a Misconduct Complaint, it is assigned to an investigator or to someone in the subject officer's chain of command for further investigation. Once the investigation is complete, the Internal Affairs Investigator can recommend a finding of **Exonerated, Not Sustained, Unfounded or No Finding**.<sup>6</sup> Should the evidence in the case lead the investigator to believe the case could be sustained, the investigator will recommend that the subject officer's chain of command review the case for Findings and Recommendations. The Internal Affairs Commander reviews the Investigator's recommendation and either closes the case with the recommended Finding or sends the case to the subject officer's chain of command. Cases involving the use of Unnecessary Force cannot be closed out by the Internal Affairs Commander without the Assistant Police Chief's approval of the recommended Finding.

The following portions of this report will directly respond to the recommendations of the Independent Police Auditor.

### III. RESPONSE TO THE INDEPENDENT POLICE AUDITOR'S RECOMMENDATIONS

#### A. Defining Procedural Complaints

The Independent Police Auditor's first recommendation for Procedure Complaints states in part, "*...should only be used where the officer followed Department procedure, but the complaining citizen disagrees with the procedure itself and not with the application of that procedure. The procedural classification should not be used to classify any complaint where the facts provided by the complaining citizen allege misconduct.*"

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<sup>6</sup> San Jose Police Department Internal Affairs Unit Guidelines. Page 7.

The department recognizes that some changes needed to be made regarding the definition and classification of procedural and misconduct complaints. First, the Department has been employing an informal process (as described earlier in this report) to deal with complaints of minor transgression which could include allegations of minor misconduct. The development of this process has taken place over the last 15 years and has been utilized as a tool to effectively deal with minor transgressions without overloading the Internal Affairs System. Though internally understood by the Department management, this informal process of handling complaints developed without the appropriate revisions being made to the Department Duty Manual or to Internal Affairs Procedure Manual. The lack of supporting manual documentation resulted in the Independent Police Auditor identifying that a portion of the complaints logged in the Procedural Log did not properly fit the definition of a Procedure Complaint. Thus, since only the category of Misconduct Complaint remained, the complaints not fitting the Procedure Complaint definition should have been categorized as a Misconduct Complaint or to a category properly identified in the Duty Manual.

The second problem identified was that Procedure Complaints are not indexed by an officer's name. This practice does not allow for the Department to discover trends in an officer's behavior and does not allow for an Intervention Counseling program similar to that involving Misconduct Complaints. Additionally, this practice does not allow for the complaints to be subject to a Motion for Discovery in a criminal or civil proceeding and has lead citizens to believe that the Department is not properly retaining and accounting for complaints as dictated by 832.5 of the California Penal Code.<sup>7</sup> This has resulted in the belief that the Department has been under reporting citizen complaints, since the current process for retaining and indexing Procedure Complaints has effectively reduced those complaints to a non-complaint category.

#### 1. Police Department Response

The Department has developed a new Internal Affairs Complaint matrix in response to the concerns of the Independent Police Auditor and the ACLU (To

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<sup>7</sup> Each department agency in this state, which employs peace officers, shall establish a procedure to investigate citizens' complaints against the personnel of such departments or agencies, and shall make a written description of the procedure available to the public. Complaints and any reports or findings relating thereto shall be retained for a period of at least five years. *See California Penal Code* Section 832.5.

assist in the understanding of this process, a pictorial flow chart has been included at the end of this report).<sup>8</sup> This new process expands the current classification of complaints (Misconduct and Procedure Complaints) by formalizing the informal process (herein referred to as the Informal Complaint Process) and by adding a Policy<sup>9</sup> Complaint category. This matrix more clearly defines the classification categories to avoid misclassification conflicts (i.e. Misconduct vs. Procedural, Procedural vs. Informal). Additionally, Misconduct, Procedure and Informal Complaints will be indexed by an officers name, will be subject to an Intervention Counseling program and will be subject to Motions for Discovery. Policy Complaints (those complaints wherein a complainant disagrees with the policy not the step by step process taken by the officer to accomplish a given task) will not be indexed by an officers name. Finally, all four categories will be documented on a citizen complaint form and will be included in the Internal Affairs computerized database to properly capture the annual number of citizen complaints.

This new matrix is designed to give the Department a working model that insures the appropriate handling of citizen complaints while, at the same time, insures the capture of trends in officer behavior. Most important to the system however, is the checks and balance position that the Independent Police Auditor plays by closing the loop of the matrix in identifying potential problems in the classification of complaints, the handling or results of Internal Affairs investigations or by simply confirming the Internal Affairs process as it relates to any one complaint.

The following paragraphs describe the new definitions of Misconduct, Procedure, Informal and Policy Complaints.

a. Misconduct Complaints

The Department will redefine Misconduct Complaints as follows: *“After the initial investigation by the Intake officer, the Department determines that the facts of the allegation are such, that should they be proven, the allegation*

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<sup>8</sup> See Appendix A-2: Flow chart for new complaint process. (Synopsis of Appendix A-1 and A-2 included.)

<sup>9</sup> A Policy designates a governing principle of management and reflects the objectives, philosophy, and direction of the Department. See San Jose Police Duty Manual Section A 1101.15.

would amount to a violation of the law or of the Department policies, procedures, rules or regulations.” Upon completion of a Misconduct Complaint investigation a Finding of Sustained, Not Sustained, Exonerated, Unfounded or No Finding<sup>10</sup> will be assigned the case.

b. Procedure Complaints

The Department will redefine Procedure Complaints as follows: *“After the initial investigation by the Intake Officer, the department determines the subject officer acted reasonably and within Department Policy and Procedure given the specific circumstances and facts of the incident, and that despite the allegation of misconduct, there is no factual basis to support the allegation.”* A Finding of “Within Department Policy” will be assigned these complaints.

A second portion of the definition to Procedure Complaints will be added as follows: *“The allegation is a dispute of fact case wherein there is no independent information, evidence or witnesses available to support the complaint and there exists another judicial entity which is available to process the concerns of the complainant.”* A Finding of “No Misconduct Determined” will be assigned dispute of fact cases.

Since Chief Cobarruviaz became Chief of Police, any Use of Force Complaint where the complainant receives a serious injury or where the officer used a level of force requiring the use of O.C. spray or greater force, is automatically categorized as a Misconduct Complaint. Cases where lesser force is used or where minor injury is incurred (soreness, minor marks etc.) are looked at on a case-by-case basis to determine if a Misconduct Complaint investigation is the appropriate course of action to be taken.

c. Informal Complaints

A formal definition of an Informal Complaint will be established as follows: *“An allegation involving minor transgressions on the part of a subject officer*

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<sup>10</sup> San Jose Police Duty Manual Section C 1513.20.

*may be handled informally by bringing the matter to the attention of the officer's chain of command and his or her immediate supervisor at the Complainant's request. In choosing this process the Complainant makes a knowledgeable decision not to proceed with a formal Internal Affairs Misconduct investigation. The utilization of this process does not imply that the subject officer has in fact committed the transgression as described by the citizen complainant."* An Informal Complaint would be referred to the subject officer's chain of command and first line supervisor for review. The supervisor would be responsible for bringing the matter to the attention of the subject officer and would be responsible for monitoring future performance. The case would then be closed as an Informal Complaint with a Finding of Supervisor Review/Complaint filed.

Should the complainant request personal contact from the subject officer's immediate supervisor, the Internal Affairs Intake Officer will notify the supervisor by checking the appropriate box on the Internal Affairs Citizen Complaint Face Sheet Form. The supervisor is then responsible for contacting the complainant and returning the Complaint Form to Internal Affairs indicating the date of the contact.

To insure that undue influence and pressure is not placed on the citizen complainant to cooperate with the Informal Complaint Process, the Intake Officer will explain both the Formal and Informal Complaint Process and allow the citizen to make an educated decision. This process will be updated in the Internal Affairs Procedure Manual and will be included in the training of all Internal Affairs personnel.

d. Policy Complaint

The Department will establish a new category of complaint, which is defined as follows: *"A complaint which pertains to an established policy, properly employed by a Department member, which the complainant understands but believes is inappropriate or not valid."* Policy Complaints (e.g. noise response ordinance) will not be indexed by an officer's name, as the citizen agrees that the officer followed policy, but does not necessarily agree that the policy is appropriate or valid. Policy complaints will be cataloged in a Policy



Complaint Log Book which will be retained in Internal Affairs for six years. The investigator receiving the complaint will retain investigative notes for a minimum of one year. A Citizen Complaint Face Sheet Form<sup>11</sup> will be typed and entered into the Internal Affairs computerized database.

e. Citizen Follow-up

Upon completion of a Misconduct, Procedure or Informal Complaint investigation, the Internal Affairs Unit will notify citizens in writing<sup>12</sup> that the case has been completed and explain the Finding of the case. Current procedures will be followed (As required in 832.7 CPC)<sup>13</sup> restricting the explanation to that of revealing the Findings and their definition, explaining the retention policy of citizen complaints and an explaining how to access the Auditor's office.

Cases involving Policy Complaints will be explained orally to the citizen and upon their request, a written explanation of the specific policies will be forwarded to them.

B. Auditing Procedural Complaints

The Auditor's recommendation regarding auditing Procedural Complaints states in part, *"The Internal Affairs Unit should implement the use of the Procedure Complaint Form, as mandated by their Duty Manual. Furthermore, the Procedure Complaint Form should always be typed."*

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<sup>11</sup> See Appendix A-4: Citizen complaint face sheet form.

<sup>12</sup> See Appendix A-5: Citizen complaint closing letter.

<sup>13</sup> Peace officer personnel records and records maintained by any state or local agency pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. Nothing in this section shall prohibit a department or agency from notifying the complaining party of the disposition of his or her complaint. The notification described in this subdivision shall not be conclusive or binding or admissible as evidence in any separate or subsequent action or proceeding brought before an arbitrator, court, or judge of this state or the United States. (Statement not inclusive of the entire section) See California Penal Code Section 832.7.

1. Police Department Response

The Internal Affairs Unit will complete a Summary of Citizen Complaint Form on all complaints (Misconduct, Procedure, Informal and Policy Complaints). This form summarizes the complaint and allows the citizen to review the complaint and then sign the form. In addition to this form, the Internal Affairs Unit will change the Misconduct Citizen Complaint Face Sheet Form to include Procedure, Informal and Policy Complaints. This form has just recently been automated in the Internal Affairs computerized database.

- C. Intervention Counseling and Procedural Complaints

The Auditor's concerns in regard to Intervention Counseling and Procedural Complaints states in part, *"...This Intervention Counseling occurs irrespective of the finding on a complaint. However, Intervention Counseling is only applicable to those complaints which are deemed misconduct complaints and are given a formal investigation and disposition."* *".....Intervention Counseling is not applicable to the over 1000 procedural complaints. Without appropriate tracking of the number of procedural complaints per officer, the intervention counseling program cannot meet its objective of providing counseling to officers who are receiving unusually high numbers of citizen complaints."*

1. Police Department Response

The Internal Affairs Unit will be able to track all Procedural and Informal Complaints by officer name with the new policies described in this report. That being the case, the Department will implement a form of Intervention Counseling for those officers who receive 5 or more Procedural and/or Informal Complaints within a 12 month period. The Internal Affairs Unit will track the cases and inform the officer's chain of command when the appropriate number is reached by any single officer. The officer's chain of command will be responsible for administering the counseling and will notify the Internal Affairs Unit upon its' completion.

#### D. Potential Bias Within the Internal Affairs Unit

The Auditor's recommendation regarding potential bias within the Internal Affairs Unit states in part, *"When an Internal Affairs officer has had significant prior contact with a complaining citizen) that Internal Affairs officer should not investigate that citizen's complaint. This will avoid the dangers of unconsciously reaching preliminary conclusions about the legitimacy of the complaint."*

*"There should also be a process which permits an Internal Affairs officer to defer to another Internal Affairs officer when they have had significant interaction with the officer who is being investigated."*

##### 1. Police Department Response

Procedures are already in place wherein an Internal Affairs officer is required to advise the Unit Commander of a conflict with a citizen or a subject officer due to prior contacts. This procedure will be formalized in written policy in the Internal Affairs Unit manual.

#### E. Objectivity of the Internal Affairs Process

The Auditor's recommendations in regard to objectivity of the Internal Affairs intake process states in part, *"...it is suggested that when a complainant goes to the Internal Affairs Office to file a complaint, that they should be allowed to give an uninterrupted account of what occurred. Only following this uninterrupted account should the internal Affairs Officer proceed with the targeted questions which characterize an investigative interview."*

*"It is also recommended that the Internal Affairs Unit explore how its' officers can change and improve their verbal and physical communication techniques such that citizens do not leave the office with the perception that they were not believed, not taken seriously, or that their complaints will not be thoroughly investigated."*

#### 1. Police Department Response

The Internal Affairs Unit officers have been receiving specific direction on how to better receive a citizen 5 complaint. The Department believes that the Internal Affairs Unit members can become better active listeners and can instill faith in the citizens that their complaints are taken seriously. Additionally, the Unit Commander will continue to monitor the performance of the Internal Affairs Investigators and will make timely recommendations for improvement should problems arise.

### IV. CONCLUSION

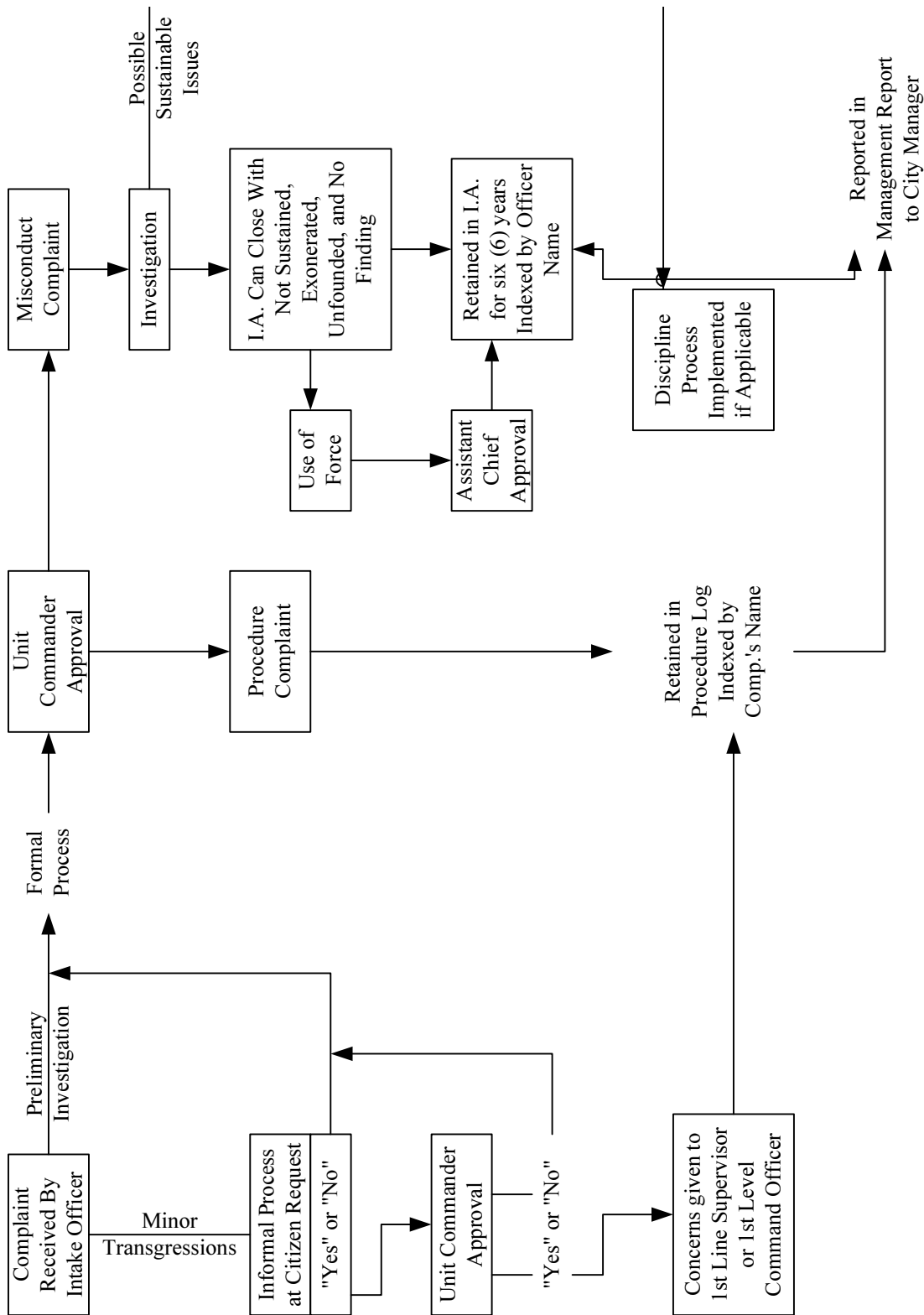
The new Internal Affairs Citizen Complaint matrix is much more efficient than the process currently in place. Misconduct, Procedure and Informal Complaints have all been redefined to avoid Citizen Complaint misclassification. These complaints will be indexed by an officer's name and will be retained in Internal Affairs for 6 years. This indexing system will allow the Department to identify potential problems in an officer and will allow the Department to intervene should a pattern or series of complaints become evident. This process will enable the complaints to be subject to Discovery in a civil or criminal proceeding and will allow for the complete accounting of citizen complaints.

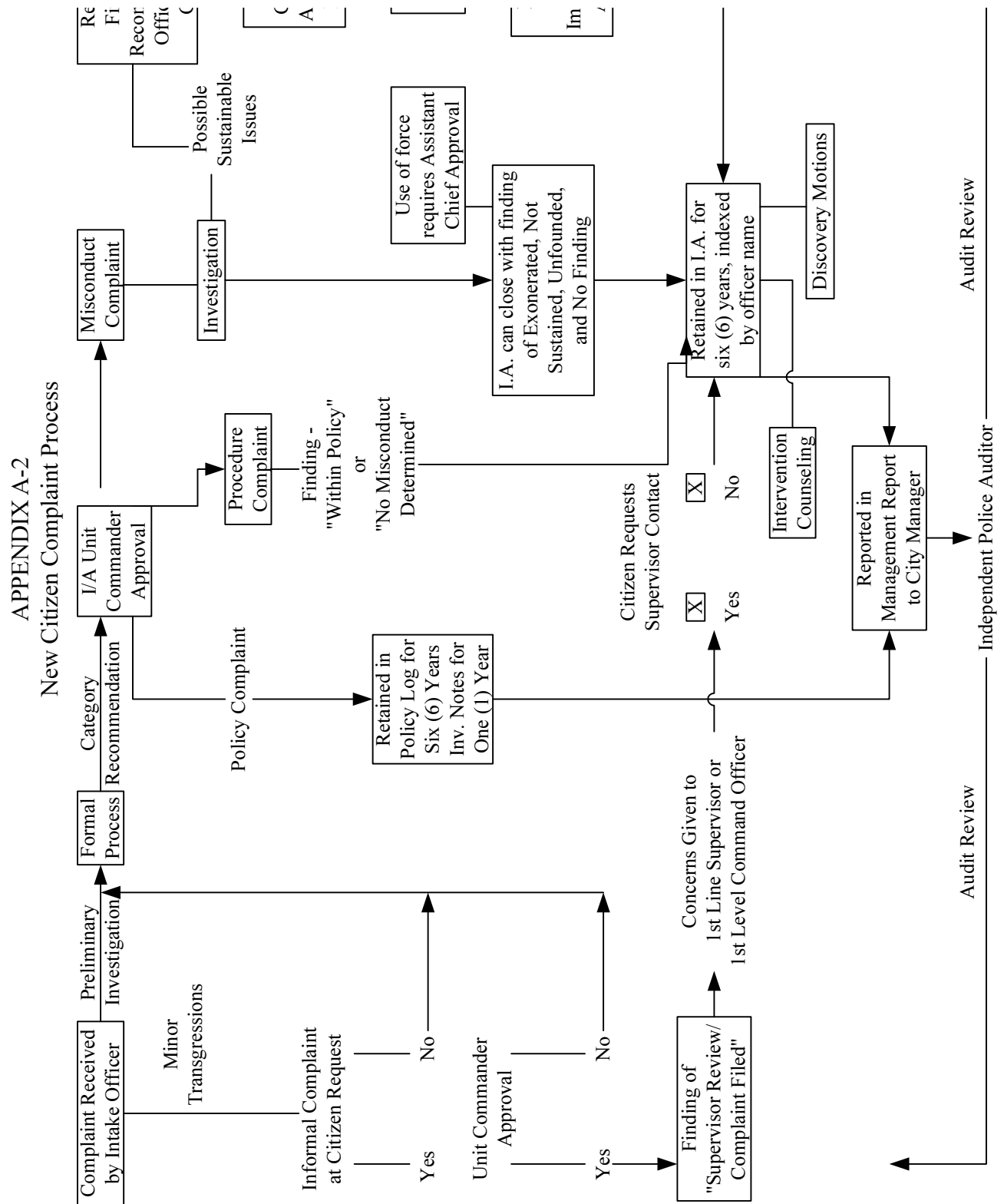
The new process also allows the review of a type written Citizen Complaint Face Sheet Form for all categories of complaints (Misconduct, Procedure, Informal and Policy). All category types will be included in the Internal Affairs computerized database for quarterly reporting to the City Manager.

### V. TIME LINE

<u>ITEM</u>	<u>DATE</u>
CITY COUNCIL APPROVAL	05/31/94
COMPUTERIZED DATABASE ADJUSTMENTS	05/31/94
INTERNAL AFFAIRS MANUAL REVISIONS	08/31/94
PROCESS IMPLEMENTATION	06/01/94
MANAGEMENT TRAINING	08/31/94
LINE OFFICER TRAINING	08/31/94
DUTY MANUAL REVISIONS	08/31/94

APPENDIX A-1  
Current Citizen Complaint Process





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**CURRENT PROCESS**

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**Misconduct Complaint**

Findings\* made by Internal Affairs:

- |                  |               |
|------------------|---------------|
| A) Not Sustained | B) Exonerated |
| C) Unfounded     | D) No Finding |

\* Cases with possible sustainable issues are referred to the subject officer's chain of command for a finding (sustained, not sustained, etc.) and recommendation for discipline. All misconduct cases are retained for six (6) years and indexed by Officer's name. Officers receiving 3 or more misconduct complaints in a twelve month period receive intervention counseling by Deputy Chief and Internal Affairs Commander.

**Procedure Complaint**

Finding: Yes or No (it is or is not a procedure complaint)

If yes: Procedure cases are indexed by complainant's name and are retained in a log for four (4) years with investigative notes being retained for one (1) year.

**Informal Complaint (misconduct)**

Finding: N/A. Documented in Procedure Log with same retention policy as procedure complaints.

All complaints reported to City Manager's Office in trimester Management Report (informal process reported as procedure complaint).

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**PROPOSED PROCESS**

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**Misconduct Complaint**

Findings\* made by Internal Affairs:

- |                  |               |
|------------------|---------------|
| A) Not Sustained | B) Exonerated |
| C) Unfounded     | D) No Finding |

\* Cases with possible sustainable issues are referred to the subject officer's chain of command for a finding (sustained, not sustained, etc.) and recommendation for discipline. All misconduct cases are retained for six (6) years and indexed by Officer's name. Intervention counseling procedure still applies.

**Procedure Complaint**

Finding: Within procedure or no misconduct determined. Indexed by subject officer's name and retained for six (6) years.

**Informal Complaint**

Finding: Complaint filed/supervisor review (citizen request of supervisor contact > yes or no). Indexed by subject officer's name and retained for six (6) years. Officers receiving 5 or more procedure and/or informal complaints in a twelve month period receive intervention counseling by their first and/or second line supervisor.

**Policy Complaint**

Finding: N/A. Indexed by complainant's name and retained in Policy Log for six (6) years.

All complaints reported to City Manager's Office by category in trimester Management Reports.



## APPENDIX A-3

**SAN JOSE POLICE DEPARTMENT  
INTERNAL AFFAIRS  
SUMMARY OF CITIZEN COMPLAINT**

**Today's date:** \_\_\_\_\_ **Internal Affairs Case #:** \_\_\_\_\_

**Tape Recorded?** Yes ( ) No ( )      **SJPD Case / Cite #:** \_\_\_\_\_

**Date/Time of Incident:** \_\_\_\_\_ **Location:** \_\_\_\_\_

**Complainant's Name:** \_\_\_\_\_

**Complainant's Address:** \_\_\_\_\_

**Regarding Officer(s):** \_\_\_\_\_

**Summary of complaint:** (use additional pages if necessary)

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

**I have reviewed this summary of complaint, and to the best of my knowledge, I find it to be true and accurate.**

**Signature of Complainant**

**Signature of I/A Investigator**

## APPENDIX A-4

Received Date: _____	SAN JOSE POLICE DEPARTMENT	Complaint NO.: <b>IN 94 -</b>	
Received Time: _____	Internal Affairs Unit		
Assigned Date: _____	Personnel and Procedures Complaint		
<u>Complainant Name</u>	<u>Address</u>	<u>Home Phone</u>	<u>Work Phone</u>
Incident Date: _____ Day: _____ Time: _____ Location: _____ Beat: _____ Cite/Case No.: _____ <div style="display: flex; justify-content: space-around; font-weight: bold;"> <span>ALCOHOL</span> <span>NARCOTICS</span> <span>PAY JOB</span> <span>WEAPON</span> </div>			
<u>Officer Name and Badge Number</u>	<u>Allegations</u>	<u>Findings</u>	<u>Discipline/Comments</u>
	1. 2. 3. 4. 5.	1. 2. 3. 4. 5.	
<u>Witness Name</u>	<u>Address</u>	<u>Telephone</u>	
<u>Statement</u>			

Received By: \_\_\_\_\_ IA Investigator: \_\_\_\_\_

Closed Date: \_\_\_\_\_ Closed Investigator: \_\_\_\_\_

Comp. Cl. Letter: \_\_\_\_\_ Notif. Supv.: \_\_\_\_\_ Ofc.: \_\_\_\_\_

Does Citizen wish to be contacted by Supervisor? (Yes/No)      Contact Date: \_\_\_\_\_

APPENDIX A-5



**CITY OF SAN JOSÉ, CALIFORNIA**

201 W. MISSION STREET  
P.O. BOX 270  
SAN JOSE, CALIFORNIA 95103-0270  
(408) 277-4212

CHIEF OF POLICE  
LOUIS A. COBARRUVIAZ

(DATE)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RE: Notification of Disposition of Complaint - CPC 832.7(c)

Dear \_\_\_\_\_:

The investigation into your complaint regarding the conduct of a San Jose Police Officer has been completed. After reviewing all of the available evidence, a disposition of \_\_\_\_\_ has been reached. The San Jose Police Department defines this disposition to mean

\_\_\_\_\_.

Because the California Penal Code classifies personnel investigations pertaining to peace officers as confidential, I am unable to disclose the type of discipline imposed in this matter or the details of the investigation; however, I can tell you that all allegations of misconduct are treated very seriously no matter what the final disposition may turn out to be. As such, I would like to share with you other processes that result from citizens registering a complaint.

All citizen complaints are maintained by the Internal Affairs Unit for six years after they are received. Should an officer received three or more citizen misconduct complaints in a twelve-month period, he or she will automatically receive counseling by a Deputy Chief and the Internal Affairs Commander. This counseling takes place even if the officer was exonerated for any or all of the complaints. Officers receiving five or more procedural and or informal complaints in a twelve-month period will also receive Intervention Counseling.

## Notice of Disposition Complaint

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Prior to a promotion to a higher rank or prior to an assignment to a specialized unit, all officers wishing to compete for such an assignment must pass a review of their Internal Affairs file. Should an applicant officer have sustained complaints or a series of complaints with other dispositions, very careful consideration is given as to the officer's suitability for the job prior to any assignment.

The San Jose Police Department has instituted several programs to train officers on how to better serve the community. These programs include Cultural Diversity Sensitivity Training, Peer Counseling, Crisis Intervention Stress Debriefing and Community Oriented Policing. All of these programs are designed to better serve you and the community.

Thank you for taking the time to bring this matter to our attention. If you have any questions, please contact me at (408) 277-4094. You may also contact the Independent Police Auditor, Teresa Guerrero-Daley regarding a review of this matter. The Auditor is responsible for reviewing Internal Affairs investigations and for receiving citizen complaints. You can contact her Monday - Friday, 8:00 a.m. - 6:00 p.m. at (408) 977-0652.

Sincerely,

LOUIS A. COBARRUVIAZ  
Chief of Police

(Investigator's signature)  
Internal Affairs Unit